IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 2565 of 2005

Between:

G.Ramakrishna S/o G.Ramulu
R/o H.No.9-16, Medara Street

Proddatur, Kadapa District.

..... PETITIONER

AND

1 Government of Andhra Pradesh Rep.by its

Asst. Commissioner of Labour
Kadapa
2 The Depot Manager Andhra Pradesh State Road

Transport Corporation Proddatur Depot, Proddatur

Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an order direction or writ particularly one in the nature of writ of Certiorari or any other appropriate writ after calling for the records from the Office of the Assistant Commissioner of Labour, Cuddapah in Rc.No.A/351/2004 dt. 26/08/2004 quash the same; and consequently direct the respondents to refer the dispute for adjudication to Industrial Tribunal/Labour court, pass such other order or orders as the Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: MR P.V.SWAMY, SC FOR APSRTC

The Court at the admission stage made the following:

ORDER:

This writ petition is directed against the proceedings in Rc.No.A/351/2004, dated 26.08.2004 issued by the 1st respondent in not entertaining the matter for adjudication.

The petitioner is working as a Conductor in the respondent Corporation. He was charge sheeted for certain irregularities. After regular enquiry, he was imposed punishment of deferment of annual increment for a period of four years with cumulative effect vides proceedings dated 25.09.1989. He preferred an appeal before the Divisional Manager, Kadapa Division on 10.10.1989 and the same was rejected vide proceedings dated 23.12.1989. Thereafter, he preferred a review to the Region Manager on 19.02.1990 and the Regional Manager considered his review and modified the punishment as deferment of annual increment for a period of three years with cumulative effect, by his order dated 09.07.1990. The petitioner raised an Industrial Dispute before the 1st respondent under Section 10 (4) of the Industrial Disputes Act, 1947. The 1st respondent instead of sending failure report to Government, rejected his claim vide proceedings dated 26.08.2004 on the ground that the dispute is time barred. Hence the present writ petition.

Heard the learned Counsel for the petitioner and the learned Counsel for the respondents.

The learned Counsel for the petitioner has contended that the

1st respondent has no power or authority to refuse the case for adjudication on the ground of delay and therefore, the impugned proceedings suffers from legal

infirmities.

On the other hand, the learned Counsel for the respondents has contended that since there was a delay of seven years, the dispute raised by the petitioner does not merit the reference for adjudication in the Labour Court and therefore, the 1st respondent rightly refused to entertain the case.

Section 10 of the Industrial Disputes Act, 1947 does not prescribe any period of limitation for raising any dispute. In a similar case, this Court allowed a **Writ Petition No.23432 of 2004, dated 23.12.2004** in ***S.A.Khader vs. Prl.Secretary to Govt. and others***, finding that the Government erred in refusing the case on the ground of delay.

Following the aforesaid judgment, the Writ Petition is allowed, setting aside the impugned proceedings dated 26.08.2004 and the

1st respondent is directed to entertain the dispute under Section 10 of the Industrial Disputes Act, 1947. No order as to costs.

Dated: 24.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Asst.Commissioner of Labour,

Government of Andhra Pradesh,

Kadapa(Enclosed copy of W.P.23432/2004,dt.23.12.2004)

2. The Depot Manager,

APSRTC, Proddatur Depot,

Proddatur, Kadapa District(Enclosed copy of

W.P.23432/2004,dt.23.12.2004)

3. Two CD copies